

# SENATE BILL REPORT

## SSB 6387

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As Passed Senate, February 13, 2014

**Title:** An act relating to reducing the number of individuals with developmental disabilities who have requested a service but the provision of a specific service would exceed program capacity.

**Brief Description:** Concerning individuals with developmental disabilities who have requested a service from a program that is already at capacity.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hill, Hargrove, Ranker, Fain, Braun, Tom, Dammeier, Parlette, Becker, Schoesler, Hewitt, Bailey, King, Angel, Roach, Keiser, Litzow, Kohl-Welles, O'Ban, Conway and Benton).

**Brief History:**

**Committee Activity:** Health Care: 2/03/14, 2/06/14 [DP-WM].

Ways & Means: 2/10/14, 2/11/14 [DPS].

Passed Senate: 2/13/14, 49-0.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Pedersen, Ranking Member; Angel, Bailey, Cleveland, Keiser and Parlette.

**Staff:** Kathleen Buchli (786-7488)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6387 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Fraser, Frockt, Hasegawa, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

**Staff:** Carma Matti-Jackson (786-7454)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** The Developmental Disabilities Administration (DDA) within the Department of Social and Health Services (DSHS) serves clients in a variety of community and institutional settings. The level of support needed by DDA clients to assist them in their daily lives and help them participate in the community varies greatly across individuals. Some clients who have exceptional care and treatment needs receive care in state-run Residential Habilitation Centers (RHCs). Others may receive services through residential programs in community living situations, or receive services in their own homes. Services are offered under waivers; Home and Community Based Waiver services are a capped program and are only provided to individuals based on available funding. A number of individuals meet the statutory definition of having a developmental disability, have requested a service, and are waiting for an available slot.

On July 31, 2013, the State Auditor's Office released its Performance Audit of the DDA within DSHS. The Performance Audit found that over 20,500 individuals with developmental disabilities receive services from the state while an additional 15,100 who meet financial and physical eligibility requirements do not currently receive any services. The Performance Audit determined that this is "due in part to policy choices the state has made about the services it offers combined with insufficient funding to meet the demand for services." The Performance Audit recommended that the Legislature set policy and develop strategies to use cost-effective service options such as: (1) reducing the number of RHCs; (2) expanding crisis stabilization and emergency respite services in the community; and (3) providing resources to build peer support networks in the community to aid clients and their families with transportation, respite, and day activities. The Performance Audit also recommended that the Legislature set targets to reduce the waitlist and prioritize the people waiting for services by their needs.

**Summary of Substitute Bill:** DSHS must establish and maintain a service request list for individuals who are found to be eligible and have an assessed and unmet need for services offered under a home and community-based services waiver, but funding is not available to provide that service. Services must be prioritized for Medicaid-eligible clients and made available to non-Medicaid eligible clients based on available funding.

DSHS must develop and implement a Medicaid program to replace the Individual and Family Services program for Medicaid-eligible clients beginning May 1, 2015. The new Medicaid program must offer services that resemble the services offered through the Individual and Family Services program. By June 30, 2017, DSHS must increase the number of clients served on the new Medicaid program by 4000. General Fund-State dollars previously provided for the Individual and Family Services program may be used to cover the costs of increasing the number of clients served.

DSHS must expand the Home and Community Based Services Basic Plus Waiver client caseload beginning June 30, 2015. By June 30, 2017, DSHS must increase the number of clients served on the Home and Community Based Services Basic Plus Waiver program by 1000. General Fund-State dollars previously provided for the Individual and Family Services may be used to cover the costs of increasing the number of clients served.

DSHS must refinance Medicaid personal care services under the Community First Choice Option (CFCO). CFCO must be fully implemented no later than August 30, 2015.

Stakeholders must be included in the benefit design. Without express legislative authorization, the per-capita cost of all services offered in the new CFCO benefit design must not exceed a 3 percent increase over the per-capita costs of services provided to this population prior to the refinance.

For fiscal year 2015, the general fund savings achieved by implementing a Medicaid program to replace the Individual and Family Services program must be used to implement CFCO. For the 2015-17 and 2017-19 biennia, the general fund savings achieved by refinancing Medicaid personal care services under CFCO must be used to offset costs relating to the increased client caseloads, and the remaining savings must revert to the general fund.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Health Care):** PRO: This addresses the list of people who are requesting a DDA service, but who are waiting for the service because funding is not available. This will address the waitlist in three years and provide 5000 people services. Services that will be provided include respite and employment services. This will keep families together and is an economical approach for the state. Giving people access to employment services is beneficial to all. There is a need for respite services to help families; some have been on the waitlist for years. This provides needed support for families and demonstrates the need for community support to take care of children in their homes. We need families to have resources, and we need to get them off the waitlist. Rather than have savings revert to the general fund, savings should go back to the home and community system. The no-paid services caseload is bigger than the waitlist, and the no-paid services caseload still needs to be addressed. Services that will be provided will teach people to become more independent, and this will lower the fiscal note over time. People with significant disabilities live at home, and those people need more help. They need services to teach them more skills. We support families and the opportunity to keep people in their homes. People on the waitlist receive services if they go into crisis; providing them services prevents these crisis situations.

CON: The Community First Choice Option will move people into community placements. This will close residential habilitation centers, will cost more money, and put people in harm's way.

OTHER: We support use of the Community First Choice Option and remaining savings should be distributed between the aging and disability communities.

**Persons Testifying (Health Care):** PRO: Senator Hill, prime sponsor; Marcie Osborne, Community Employment Alliance; Margaret-Lee Thompson, The Arc of the United States, Board; Heather Hebdon, Partnerships for Action Voices for Empowerment; Sue Elliott, Arc of WA State; Donna Patrick, Developmental Disabilities Council; Evelyn Perez, Asst.

Secretary for the Developmental Disabilities Administration; Emily Rogers, Self Advocates in Leadership; Jerry Reilly, ElderCare Alliance; Cathy Knight, WA Assn. of Area Agencies on Aging; Darla Helt, WA State Parent Coalitions; Kelly Church, Diane Perry, citizens.

CON: Paul Strand, Action DD.

OTHER: Mary Clogston, American Assn. of Retired Persons.

**Staff Summary of Public Testimony on Original Bill (Ways & Means):** PRO: We are really happy to support this bill. Thank you for taking advantage of CFCO and providing low-cost services for vulnerable individuals who have been waiting for years for services. Thank you for making the needs of people with developmental disabilities a priority. For many years, families and individuals have been waiting for services from DSHS. The timeline is fairly aggressive considering the Center for Medicaid and Medicare Services must approve the waivers, but we support the bill.

OTHER: We have major concerns with the reversion of unspent savings from CFCO reverting to the general fund. We strongly oppose this diversion. A lot of hard work has taken place at the national level to get the Community First Choice provision included in the Affordable Care Act. The enhanced match is to ensure states have the funding to rebalance toward home and community-based services and not to fix other budget problems. We need to leave the option open to reinvest in the populations of long-term care and people with developmental disabilities. Savings should be geared toward restoring home care hours that have been cut in previous budgets.

**Persons Testifying (Ways & Means):** PRO: Margaret Lee Thompson, The Arc of WA State; Evelyn Perez, DSHS DDA.

OTHER: Luke Esser, Service Employees International Union Healthcare 775NW; Cathy Knight, W4A; Ingrid McDonald, American Assn. of Retired Persons WA.